

**Introduced by Senator Cox**

February 18, 2010

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An act to repeal Sections 35555, 35556, and 45121 of the Education Code, relating to school employees.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1135, as introduced, Cox. School employees: school district reorganization.

Existing law prohibits the reorganization of a school district or districts from affecting the classification of certificated employees already employed by a school district affected by the reorganization and from affecting the rights of persons employed in positions not requiring certification qualifications to retain the salary, leaves, and other benefits that they would have had if the reorganization had not occurred. Existing law requires that persons employed in positions not requiring certification qualifications in a school district whose territory is included in a unification of districts to continue as employees of the unified school district for not less than 2 years and prohibits those persons from being deprived, by reason of the unification, of any benefit that they would have had if the unification had not taken place.

This bill would repeal these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 35555 of the Education Code is repealed.
- 2 ~~35555. The reorganization of any school district or districts~~
- 3 ~~shall not affect the classification of certificated employees already~~

1 employed by any school district affected. Those employees have  
2 the same status with respect to their classification by the district,  
3 including time served as probationary employees of the district,  
4 after the reorganization as they had prior to it. If the reorganization  
5 results in the school or other place in which the employee is  
6 employed being maintained by another district, the employee, if  
7 a permanent employee of the district that formerly maintained the  
8 school or other place of employment, shall be employed as a  
9 permanent employee of the district which thereafter maintains the  
10 school or other place of employment, unless the employee elects  
11 prior to February 1 of the year in which the action will become  
12 effective for all purposes to continue in the employ of the first  
13 district.

14 If the employee is a probationary employee of the district which  
15 formerly maintained the school or other place of employment, he  
16 or she shall be employed by the district that thereafter maintains  
17 the school or other place of employment, unless the probationary  
18 employee is terminated by the district pursuant to Section  
19 44929.21, 44948, 44948.3, 44949, or 44955, and, if not so  
20 terminated, his or her status with respect to classification by the  
21 district shall be the same as it would have been had the school or  
22 other place of employment continued to be maintained by the  
23 district which formerly maintained it. As used in this paragraph,  
24 “the school or other place in which the employee is employed”  
25 and all references thereto, includes, but is not limited to, the school  
26 services or school program which, as a result of any reorganization  
27 of a school district, will be provided by another district, regardless  
28 of whether any particular building or buildings in which the  
29 schoolwork or school program was conducted is physically located  
30 in the new district and regardless of whether any new district  
31 resulting from the reorganization elects to provide for the education  
32 of its pupils by contracting with another school district until the  
33 new district constructs its own facilities.

34 SEC. 2. Section 35556 of the Education Code is repealed.

35 35556. — (a) The reorganization of any school district, or  
36 districts, shall not affect the rights of persons employed in positions  
37 not requiring certification qualifications to retain the salary, leaves,  
38 and other benefits which they would have had if the reorganization  
39 had not occurred. These persons shall be treated in the manner  
40 provided in this section.

1 ~~(b) All employees of every school district that is included in~~  
2 ~~any other district, or all districts included in a new district, shall~~  
3 ~~become employees of the new district.~~

4 ~~(c) (1) When a portion of the territory of any district becomes~~  
5 ~~part of another district, employees regularly assigned to perform~~  
6 ~~their duties in the territory affected shall become employees of the~~  
7 ~~acquiring district unless, in a manner consistent with relevant~~  
8 ~~provisions of this code and with any applicable collective~~  
9 ~~bargaining agreement, one of the following occurs:~~

10 ~~(A) An employee elects to accept a vacant position, for which~~  
11 ~~he or she qualifies, that the first district elects to fill.~~

12 ~~(B) An employee elects to fill, by exercise of his or her rights~~  
13 ~~of seniority under existing law or the collective bargaining~~  
14 ~~agreement with the first district, a position, for which he or she~~  
15 ~~qualifies, in the first district.~~

16 ~~(C) An employee elects to have his or her name entered on a~~  
17 ~~reemployment list of the first district.~~

18 ~~(2) Employees whose assignments pertained to the affected~~  
19 ~~territory, but whose employment situs was not in that territory,~~  
20 ~~may elect to remain with the original district or become employees~~  
21 ~~of the acquiring district.~~

22 ~~(d) When the territory of any district is divided between, or~~  
23 ~~among, two or more districts and the original district ceases to~~  
24 ~~exist, employees of the original district regularly assigned to~~  
25 ~~perform their duties in any specific territory of the district shall~~  
26 ~~become employees of the district acquiring the territory. Employees~~  
27 ~~not assigned to specific territory within the original district shall~~  
28 ~~become employees of any acquiring district at the election of the~~  
29 ~~employees.~~

30 ~~(e) An employee regularly assigned by the original district to~~  
31 ~~any school in the district shall be an employee of the district in~~  
32 ~~which the school is located unless that employee elects to continue~~  
33 ~~in the employ of the first district pursuant to subdivision (c).~~

34 ~~(f) Except as otherwise provided in this section, nothing in this~~  
35 ~~section shall be construed to deprive the governing board of the~~  
36 ~~acquiring district from making reasonable reassignments of duties.~~

37 ~~(g) The amendments to this section made during the 1999-2000~~  
38 ~~Regular Session of the Legislature shall apply only to school~~  
39 ~~district reorganizations commenced on or after January 1, 2000.~~

40 SEC. 3. Section 45121 of the Education Code is repealed.

1     ~~45121. Persons employed in positions not requiring certification~~  
2     ~~qualifications in districts, all or part of whose territory is included~~  
3     ~~in a unification of districts, shall continue as employees of the~~  
4     ~~unified school district for not less than two years, and shall not,~~  
5     ~~by reason of any unification, be deprived of any benefit which~~  
6     ~~they would have had had the unification not taken place. In~~  
7     ~~determining the rights of such employees, their salaries,~~  
8     ~~accumulated leaves, and other rights shall be determined as of the~~  
9     ~~date the unification election was conducted. No increase in benefits~~  
10    ~~not previously conferred, granted by the governing board of any~~  
11    ~~district, all or part of whose territory is included in a unification~~  
12    ~~of districts, after such unification election, shall be binding on the~~  
13    ~~governing board of the unified district, except that benefits granted~~  
14    ~~in the districts comprising the new unified district which does not~~  
15    ~~become effective until the second succeeding first day of July shall~~  
16    ~~be binding on the governing board of the unified district. Nothing~~  
17    ~~herein contained shall preclude the governing board of the unified~~  
18    ~~school district from making any reasonable reassignment of the~~  
19    ~~duties of such employees. The governing board of the unified~~  
20    ~~district shall establish a system of uniform salaries, employee~~  
21    ~~benefits and working conditions for employees performing like~~  
22    ~~services in conformity with the provisions of this section.~~